


POLICY TITLE: DRUG AND ALCOHOL TESTING OF JUVENILE CLIENTS		PAGE 1 OF 13
POLICY NUMBER: 15.4		
CHAPTER 15: BEHAVIOR MANAGEMENT SYSTEM		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Division of Juvenile Services	PROFESSIONAL STANDARDS: See Section VII
	Approved by: <u><i>Martin Magnusson</i></u> Signature of Commissioner	
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- I. **AUTHORITY** The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1402.
- II. **APPLICABILITY** All Juvenile Correctional and Detention Facilities and Juvenile Community Correctional Programs.
- III. **POLICY** The Department of Corrections is committed to zero tolerance practices that combat the use of illegal drugs and alcohol by the juveniles in its custody or under its supervision to ensure a more secure, safe, and healthy living environment. The purposes of the Department's Drug and Alcohol Testing Program are:
 1. To aid in the control of illegal drugs and alcohol (any Scheduled Drug as defined in Title 17-A M.R.S.A. sections 1101 and 1102, to include prescription drugs) and alcohol (any alcoholic, spirituous vinous, fermented, or other liquid that contains alcohol);
 2. To determine the level of illegal drug and alcohol use by those juveniles in custody or under supervision in the community;
 3. To identify individuals who are illegally using drugs and alcohol and take appropriate action to curtail usage;
 4. To monitor compliance with institutional rules, treatment programs, and conditions of supervision in the community.

For the purposes of this policy and procedures, persons or agencies under contract with the Department of Corrections to provide community supervision of juveniles may collect and test specimens for drugs and alcohol, if personnel receive approved training, use a drug or alcohol detection system approved by the Commissioner of Corrections, and otherwise comply with all requirements of this policy and procedures. In

addition, law enforcement agencies or independent certified testing facilities may collect and test specimens for drugs and alcohol in accordance with their own policies and procedures.

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Procedure A. Drug and Alcohol Testing Procedures, General

1. The Department's Drug and Alcohol Testing Program is intended to supplement, not replace, other traditional means by which the illegal use of drugs and alcohol can be detected. Juveniles may be required to submit to drug and alcohol testing in the following instances:
 - a. Community Rehabilitation Programs: As a condition of participation in community programs, such as conditional release, informal adjustment, probation, facility leave, and aftercare.
 - b. Therapeutic Community and Intensive Substance Abuse Treatment Programs: All juveniles participating in these type of programs may be tested prior to entry into the program, and on at least a monthly basis thereafter, as a condition of participation in the program.
 - c. Suspected Drug Use: Any juvenile residing at a juvenile correctional facility or detention facility may be ordered to submit to drug or alcohol testing when there is reasonable suspicion, i.e., facts within an employee's knowledge and derived from reasonably reliable information that are sufficient to warrant a prudent person to suspect that the individual has been illegally using drugs or alcohol. This is less than probable cause but more than an unsubstantiated hunch.
 - d. Resident Random Drug or Alcohol Testing: The names of residents to be tested on a random basis, a selection process that ensures each person has a chance of being selected for testing

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and the person has no prior knowledge of when a drug or alcohol test will be administered, shall be chosen from the housing list for the entire facility or the population census of the entire facility and shall be varied for each testing period by choosing every other resident's name, every third name, every fourth name, and so forth. A computer program that chooses names randomly from the housing list or population census may also be used. A minimum of 10% of the total resident population shall be tested on a random basis quarterly. Every random drug test shall test for at least cannabis, cocaine, opiates, amphetamines and methamphetamines. Specimens will be collected on different days of the week (including weekends) and, if possible, at different times of the day or night, to avoid setting any type of predictable testing schedule.

2. At facility reception, all new residents shall be informed of the Department of Corrections policy that every positive drug or alcohol test obtained within the Department of Corrections will result in the imposition of graduated sanctions (measures, whether or not punitive in nature, which are designed to combat the use of illegal drugs or alcohol by the Department's juvenile resident population by providing that for each subsequent positive drug or alcohol test the sanctions administered are more restrictive than for the previous positive test). All juvenile correctional or detention facilities will post this zero tolerance policy in areas used for visitation.
3. At the first juvenile community corrections officer contact, all new juvenile community correctional clients shall be informed of the Department of Corrections zero tolerance policy on drugs and alcohol.
4. Alcohol and drug specimen collection and testing shall be performed only by those Department employees who have received training and have been found to have the knowledge and skills in the proper procedures for collection and/or testing of these specimens. Such training is to be documented in the employee's training file.
5. The facility Chief Administrative Officer or Regional Correctional Administrator shall provide the Associate Commissioner of Corrections with an up-to-date written list of each employee trained in the proper collection and testing of specimens.
6. Drug and alcohol specimen testing shall be performed only by using a drug or alcohol testing system approved by the Commissioner of Corrections. Employees responsible for testing specimens for drugs or alcohol shall ensure that all testing equipment is working properly. Equipment problems, which cannot be corrected by departmental

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employees shall be immediately referred to authorized persons for repair or replacement.

7. All employees collecting specimens, or otherwise handling specimens, shall ensure that chain of custody, i.e. documentation of the process of collection, storage, transportation, and testing of a specimen to assure that it is not contaminated from the point of collection to the point of testing, is maintained.
8. The facility Chief Administrative Officer or Regional Correctional Administrator shall monitor drug and alcohol testing of juveniles conducted by his/her staff to ensure compliance with departmental policy and procedures.
9. The Department of Corrections policy requires all employees handling biological specimens to practice UNIVERSAL PRECAUTIONS. (For details and procedures refer to Department of Corrections' Policy and Procedures, Bloodborne Pathogens, Employee)
10. The Regional Correctional Administrator or facility Chief Administrative Officer may authorize testing of a specimen by an independent certified testing facility which is approved by the Commissioner of Corrections.

Procedure B. Urine Collection and Testing Procedures

1. Urine Specimen Collection Procedures: All urine specimen collection within the juvenile correctional and detention facilities shall be performed by employees who are the same sex as the resident being tested. In a community corrections situation that does not allow direct observation by the employee collecting the urine specimen because of the same sex requirement, the urine collection procedures may be modified. Community corrections urine collection procedures shall follow the facility urine collection procedures as closely as the community corrections situation allows. However, there shall be no strip searches of community corrections clients by juvenile community corrections officers without court authorization. All reasonable precautions shall be taken in the collection procedures to insure the collection of a non-contaminated specimen.

The following steps are to be taken in performing a urine specimen collection within the juvenile facilities, maintaining an appropriate chain of custody to maintain specimen integrity:

- a. Request for Urinalysis Test Form (Attachment A) must be filled out for every juvenile selected for urine testing, including any legal medication the juvenile claims to be currently taking and any medically documented physical or mental condition the juvenile claims interferes with the ability to provide an adequate specimen. Any juvenile making a false claim shall be subject to disciplinary

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action. The form shall be filled out completely in ink.

- b. The Department of Corrections employee shall positively identify the juvenile who has been selected to be tested. This shall be done by matching the picture, the name, and the Request for Urinalysis Form.
- c. The Department of Corrections employee shall inform the juvenile that he/she has been selected for testing. The Department of Corrections employee shall give the juvenile a directive that he/she will be required to produce a urine specimen conforming to the specifications of the manufacturer of the drug of alcohol testing system. If the juvenile refuses to submit a specimen, he/she shall be informed that refusal will result in the same consequences as a positive test result. If the juvenile fails to produce an adequate specimen, he/she shall be informed that failure will result in the same consequences as a positive test result.
- d. The juvenile shall remain under the direct observation or control of a Department of Corrections employee until the urine specimen has been collected, identified, and sealed.
- e. The specimen collection area shall provide secure, private, and sanitary conditions.
- f. The juvenile shall be required to wash his/her hands prior to collection of the specimen. In the alternative, the employee may provide the juvenile with latex or similar gloves and may require the juvenile to wear them while providing the specimen.
- g. The employee collecting the specimen shall search the juvenile before collecting the specimen to ensure the juvenile is not carrying a false specimen or material, which may be used to contaminate the specimen.

If it is deemed necessary, the employee may conduct a strip search of a resident. Strip searches shall be conducted by staff of the same sex as the resident in an area free of persons of the opposite sex.

- h. If the juvenile is unable to provide a urine specimen immediately, he/she is to be kept under observation and separated from other juveniles until he/she is able to provide a specimen. If the juvenile fails to produce a specimen immediately, he /she shall be allowed a small (6 oz.) cup of water every 30 minutes up to a maximum of 24 oz. to help produce an adequate specimen. If the juvenile fails to provide a urine specimen in an amount conforming to specifications

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of the manufacturer of the drug or alcohol testing system within two (2) hours of being ordered to do so, this failure will be considered the equivalent of refusing to provide a specimen.

If the juvenile claims that his/her failure to provide an adequate specimen is due to a medically documented physical or mental condition, the employee shall determine whether acceptable documentation exists in the juvenile's medical record that the juvenile has the claimed condition. To be acceptable, the documentation must show that departmental staff has verified the existence of the condition. Departmental medical staff shall not verify the existence of a physical condition interfering with the production of an adequate specimen unless the departmental medical staff has personally confirmed that the condition actually exists and that the condition makes it highly unlikely that the juvenile will be physically able to produce an adequate specimen in two hours. Departmental medical staff shall document any special accommodations for urinalysis testing required by the condition. Departmental medical staff shall also document how long any such condition is expected to last and when the condition no longer exists. Departmental mental health staff shall not verify the existence of a mental condition interfering with the production of an adequate specimen unless departmental mental health staff has personally confirmed that the juvenile has a psychiatric or psychological disorder focused on genito-urinary matters that makes it highly unlikely that the juvenile will be able to produce an adequate specimen in the presence of another person. Situational anxiety does not qualify.

If no such documentation exists, the regular procedures for specimen collection shall be followed. If the documentation exists regarding a physical condition, the employee shall follow the special accommodations that have been documented if possible or, if not possible, shall terminate the attempt to collect a urine specimen. If the attempt is terminated, the juvenile shall not be sanctioned for failure to produce an adequate specimen. If the documentation exists regarding a mental condition, the employee shall strip search and place the juvenile without any clothing alone in a dry room (a room with no water and no items that could be used to contaminate a specimen). The employee shall not observe the juvenile urinating or attempting to urinate. Regular procedures for specimen collection shall otherwise be followed.

- i. The employee shall witness the passage of the urine into the specimen container. After the specimen is collected in the container, the employee shall give the juvenile a lid for the specimen container. The juvenile shall put the lid on the specimen

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container and hand it to the employee. The employee shall check the container to make sure that the lid is secured.

- j. For test purposes, the specimen container must contain a minimum amount conforming to the specifications of the manufacturer of the drug or alcohol testing system.
 - k. The employee shall use a indelible marker to label the specimen container with the date and appropriate sample number. This number, which incorporates the date the specimen was taken, is assigned to identify a specimen and test results. This may be done before or after the specimen is collected, provided it is done in the presence of the juvenile. The employee shall also enter, in a drug and alcohol testing logbook (a bound written record maintained by each facility documenting the drug or alcohol tests administered to juveniles) or community corrections road notes, the juvenile's name, the date and time the specimen was collected, the sample number.
 - l. After the specimen is collected and if it is not to be tested immediately, the employee shall seal the specimen container with evidence tape, or similar item as provided by the manufacturer, in the presence of the juvenile and shall place, as soon as possible, the specimen in a refrigerator located in an area not accessible to juveniles or other unauthorized personnel. If the refrigerator is located outside a secure area, the refrigerator must be locked. This refrigerator shall be used to refrigerate urine specimens only.
 - m. Any person handling or removing a specimen shall record, on the Chain of Custody Form (Attachment C) his/her name, date, time, sample number, and the reason for handling or removing the specimen.
 - n. Urine specimens that are to be transported shall be stored in a secure location.
- 2. The specimen shall be tested as soon as possible. The employee collecting the specimen shall not test the specimen unless the testing is done immediately and in the presence of the juvenile.
 - 3. Testers shall follow the procedures recommended by the manufacturer of the drug or alcohol testing system unless specifically directed otherwise by this policy and procedure.
 - 4. Specimens shall be tested within 48 hours of collection, unless the specimen is frozen, in which case, the specimen shall be tested within 60 days of being collected.

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5. If a positive test result is produced, an independent test of the specimen is not required for disciplinary or revocation proceedings and shall not be done except as set out below.
6. If juvenile criminal proceedings are to be brought, an independent test is required. The confirmatory test specimen container shall be sealed, in the presence of the juvenile, with evidence tape or similar item as provided by the manufacturer. This specimen shall be stored, handled and transported in accordance with instructions by the approved independent certified testing facility.
7. If revocation proceedings are to be brought and if the positive test result is the only evidence of the violation, an independent test is required. The confirmatory test specimen container shall be sealed, in the presence of the juvenile, with evidence tape or similar item as provided by the manufacturer. This specimen shall be stored, handled and transported in accordance with instructions by the approved independent certified testing facility.
8. If disciplinary proceedings are to be brought against a juvenile taking a legal medication which could have produced the positive test result according to the manufacturer of the authorized drug or alcohol testing system and if the positive test result is the only evidence of the violation, an independent test is required. The confirmatory test specimen container shall be sealed, in the presence of the juvenile, with evidence tape or similar item as provided by the manufacturer. This specimen shall be stored, handled and transported in accordance with instructions by the approved independent certified testing facility.
9. If a specimen tests positive for cannabis and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 30 days of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.
10. If a specimen tests positive for phencyclidine and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 10 days of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.
11. If a specimen tests positive for a barbiturate and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 7 days of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.

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12. If a specimen tests positive for any other drug and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 3 days of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.
13. If a specimen tests positive for alcohol and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 24 hours of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.
14. All evidence of a test that has a positive result shall be kept until any disciplinary, revocation, or juvenile criminal proceedings have been completed including all documentation related to collection and testing, and, in the case of revocation proceedings with no other evidence or juvenile criminal proceedings, the specimen itself. A test strip showing a positive test result that degrades over time shall not be kept, but a clear photocopy or photograph of the test strip shall be taken and kept. Specimens that test negative shall be disposed of immediately after the test documentation has been completed.
15. Documentation and Reporting of Test Results:
 - a. The results of all urine tests shall be documented on the Request For Urinalysis Test form by the employee conducting the testing. This form shall accompany the specimen at all times.
 - b. A copy of the Request For Urinalysis Test form shall be returned to the employee requesting the test.
 - c. The testing employee shall ensure that the following information is entered in a drug and alcohol testing logbook or community corrections road notes:
 - * date and time the test was conducted;
 - * the sample number;
 - * specific test results (If positive, name of the substance);
 - * any specific problems with the specimen, testing procedures, or testing equipment.
 - d. If the testing employee is the same person who collected the specimen, the same logbook or community corrections road notes may be used for documenting the collection and the testing.

In a juvenile correctional or detention facility, if the testing employee is a different person from the collecting employee, a

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different logbook shall be used and a third person shall match the sample number with the juvenile's name, in order to ensure that testing done outside the juvenile's presence is done anonymously.

- e. In juvenile community corrections, the monthly total of urine tests conducted and the number of positive results shall be entered on each juvenile community corrections officer's Monthly Stat Report.
- f. Before sanctions may be imposed for a positive urine test result, any claim that the test was affected by the use of a legal medication reported at the time of collection of the specimen shall be investigated.

Procedure C. Alcohol Breath or Saliva Testing Procedures

1. The following steps are to be taken in performing an alcohol breath or saliva test.
 - a. Request for Alcohol Breath or Saliva Test Form (Attachment B) must be filled out for every juvenile selected for breath or saliva testing. It shall be filled out completely in ink.
 - b. The Department of Corrections employee shall positively identify the juvenile who has been selected to be tested. This shall be done by matching the picture, the name, and the Request for Alcohol Breath or Saliva Test Form.
 - c. The Department of Corrections employee shall inform the juvenile that he/she has been selected for testing. The Department of Corrections employee will give the juvenile a direct order that he/she will be required to produce a breath or saliva specimen. If the juvenile refuses to submit a specimen, he/she will be informed that a refusal will result in the same consequences as a positive test result.
 - d. From this point forward, the juvenile shall remain under the direct observation of a Department of Corrections employee until the specimen has been collected.
 - e. Testers shall follow the procedures recommended by the manufacturer of the alcohol testing system unless specifically directed otherwise by this policy and procedures.
 - f. If a positive test result is produced, an independent test is not required for disciplinary or revocation proceedings and shall not be done. If juvenile criminal proceedings are to be brought, an independent test is required.

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- g. If a specimen tests positive for alcohol and if disciplinary, revocation, or juvenile criminal proceedings result, no specimen collected within 24 hours of the collection of the positive test specimen may be used for further disciplinary, revocation, or juvenile criminal proceedings for that substance.
- h. All evidence of a test that has a positive result shall be kept until any disciplinary, revocation, or juvenile criminal proceedings have been completed including all documentation related to collection and testing. Saliva specimens shall be disposed of immediately after the test documentation has been documented.

2. Documentation and Reporting of Test Results:

- a. The results of all tests shall be documented on the Request For Alcohol Breath or Saliva Test form by the employee conducting the testing.
- b. A copy of the Request For Alcohol Breath or Saliva Test form shall be returned to the employee requesting the test.
- c. The employee shall ensure that the following information is entered in a drug and alcohol testing logbook or community corrections road notes:
 - * date and time the test was conducted and the type of test;
 - * specific alcohol test results;
 - * any specific problems with the specimen, testing procedures, or testing equipment.
- d. In juvenile community corrections, the monthly total of alcohol tests conducted and the number of positive results shall be entered on each juvenile community corrections officer's Monthly Stat Report.

Procedure D. Action Taken Against a Juvenile as a Result Of a Positive Test Result

- 1. A juvenile who: (a) refuses to provide a urine, breath, or saliva specimen; (b) fails to provide a urine specimen in an amount conforming to the specification of the manufacturer of the drug or alcohol testing system, within two (2) hours of being directed to do so or fails to provide a sufficient breath or saliva specimen; (c) produces a urine, breath, or saliva specimen that tests positive; (d) attempts to tamper with a specimen; or (e)

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refuses to follow instructions for providing an uncontaminated specimen will be subject to graduated sanctions.

2. The sanctions that a juvenile community corrections officer may use for juveniles include, but are not limited to, the following:
 - a. Counseling and written warning by the juvenile community corrections officer.
 - b. Mandatory AA/NA attendance.
 - c. Increased frequency of drug or alcohol testing.
 - d. Substance abuse screening, evaluation and treatment.
 - e. Increase in level of supervision.
 - f. Electronic monitoring.
 - g. Revocation proceedings.

Those sanctions that require a modification of community supervision conditions may not be imposed until the conditions have actually been modified.

3. Residents in juvenile correctional or detention facilities who provide positive drug or alcohol test results will be sanctioned according to Department of Corrections policy and procedures, including, but not limited to, the punitive sanctions set out in Department of Corrections' Policy and Procedures, #15.3, Resident Discipline System.
4. A juvenile who provides a positive drug or alcohol test result may also be subject to juvenile criminal proceedings.
5. Substance Abuse Intervention Programs:
 - a. Substance abuse education may be provided in the form of literature, individual counseling, or group counseling depending on the services that may be available within the specific juvenile correctional or detention facility, or local community.
 - b. Alcoholics Anonymous / Narcotics Anonymous are available in most of the facilities and communities, with participation being mostly voluntary. Residents may be required to attend these meetings as a condition of participation in certain programs. Community corrections clients may be required to attend these meetings as a condition of probation, aftercare, conditional release or informal adjustment.
 - c. A system of substance abuse treatment programs will be in place for treatment purposes in the facilities and in the

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communities. These programs are delivered to selected residents while incarcerated within the facilities of the Department of Corrections and to community corrections clients under the supervision of the Department of Corrections. Upon a resident's release from the facility and transfer to the control of community corrections every effort will be made to provide a continuum of substance abuse treatment services within the local community.

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**MAINE DEPARTMENT OF CORRECTIONS
REQUEST FOR URINALYSIS TEST**

This form must be completed for each test. The form must be made out by those individuals performing the indicated procedures and must be kept with the specimen.

Facility/Region _____

Request made by _____ Date _____

Sample Number _____

Client name _____ DOB: _____

NOTE: Client name and DOB are only to be completed if the specimen will be tested immediately and in the presence of the client.

Substance(s) to be tested for _____

Current medications client claims to be taking _____

Reason for request (if suspicion, describe) _____

Client refused to submit specimen: Yes _____ No _____

Were there any other problems obtaining a specimen? Yes _____ No _____

If Yes, Explain: _____

Specimen witnessed and collected by _____

Date _____ Time _____

Specimen tested by _____

Date _____ Time _____

Test results: Negative ___ Positive ___ Positive Drug Type(s) _____

I voluntarily admit that this test is correct in indicating a positive result.

Signature: _____ Date: _____

Witnessed by: _____ Date: _____

**MAINE DEPARTMENT OF CORRECTIONS
REQUEST FOR ALCOHOL BREATH OR SALIVA TEST**

This form must be completed for each test. The form must be made out by the individual performing the indicated procedures.

Facility /
Region _____

Request made
by _____ Date _____

Type of test Breath _____ Saliva _____

Client
name _____ DOB _____

Current medications client claims to be taking _____

Reason for request (if suspicion-describe) _____

Client refused to submit specimen: Yes _____ No _____

Were there any other problems with obtaining a specimen? Yes _____ No _____

If Yes, Explain: _____

Alcohol test specimen witnessed, collected, and tested by _____

Date _____ Time _____

Test results: Negative _____ Positive _____

I voluntarily admit that this test is correct in indicating a positive result.

Signature: _____ Date: _____

Witnessed by: _____ Date: _____

CHAIN OF CUSTODY
(Starting with staff collecting specimen)

SAMPLE NUMBER: _____

From: _____

To: _____

Date: _____ Time: _____ AM / PM
(Circle one)

Reason for handling or
removing: _____

Secured

Location: _____

SAMPLE NUMBER: _____

From: _____

To: _____

Date: _____ Time: _____ AM / PM
(Circle one)

Reason for handling or
removing: _____

Secured

Location: _____

SAMPLE NUMBER: _____

From: _____

To: _____

Date: _____ Time: _____ AM / PM
(Circle one)

Reason for handling or
removing: _____

Secured

Location: _____

THIS FORM MUST BE KEPT CURRENT AT ALL TIMES